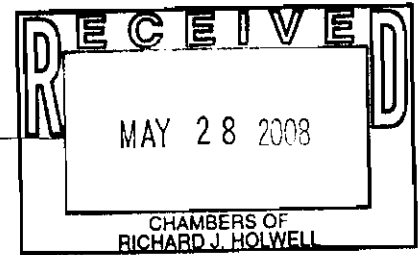


PITTA & DREIER ^{LLP}

ATTORNEYS AT LAW

Barry N. Saltzman *Partner*
Direct Dial 212 652 3827
bsaltzman@pittadreier.com



USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 6/2/08

May 27, 2008

Via Fax 212-805-7948

Hon. Richard J. Holwell, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Tran Dinh Truong, Alphonse Hotel Corp. d/b/a The Hotel Carter v. New York Hotel & Motel Trades Council, AFL-CIO, the Office of the Impartial Chairman and Peter Ward*
SDNY Case No.: 07-CV-11383(RJH)

Dear Judge Holwell:

As the Court may know, this office represents the defendants New York Hotel & Motel Trades Council, AFL-CIO and its President, Peter Ward (jointly "Union") in the above-referenced action. We write to request direction on the briefing schedule for the Union's motion for judgment pursuant to Rule 12(c) of the Federal Rules of Civil Procedure ("FRCP"), necessitated by the failure of plaintiffs Tran Dinh Truong etc. d/b/a Hotel Carter ("Plaintiffs") to timely oppose the Union's motion.

As recounted in the May 19, 2008 letter to the Court by Michael D'Angelo of this office, after obtaining one 15 day extension of time over the original 30 for their opposition papers, Plaintiffs still failed to file or serve any papers when due May 15, 2008. With prompting by the Court and Union, Plaintiffs wrote on May 22 claiming a May 16 service difficulty and eventually filed and served their opposition papers on Friday afternoon, May 23, 2008, without exhibits, the day the Union's reply papers would have been due, with an offer that the Union's reply be rescheduled for June 2, 2008. Unfortunately, as Union correspondence had warned, we are engaged in closing discovery and preparation for summary judgment papers due June 16, 2008 in Chelsea Grand LLC v. New York Hotel & Motel Trades Council, AFL-CIO, SDNY No. 07-Civ-2614 before Judge Paul A. Crotty and had planned to have completed briefing the instant motion according to prior schedules much earlier this month. Due to Plaintiffs' late filings, the Union cannot now reply June 2.

499 Park Avenue New York, New York 10022
Telephone 212 652 3890 Facsimile 212 652 3891

111 Washington Avenue Suite 401 Albany, New York 12210
Telephone 518 449 3320 Facsimile 518 449 5812

www.pittadreier.com

(00358146.DOC;)

Hon. Richard Holwell, U.S.D.J.
 United States District Court
 May 27, 2008
 Page 2

Plaintiffs' service and filing of their papers opposing the defendants' Rule 12(c) motions more than one week after the already extended May 15, 2008 due date, and without having sought the Court's prior permission to do so was unauthorized. Fed. R. Civ. P. 6(b)(1)(B) provides:

(b) Extending Time

(1) *In general.* When an act may or must be done within a specified time the court may, for good cause, extend the time

* * *

(B) *on motion* made after the time has expired if the party failed to act because of *excusable neglect*.

Id. (emphasis added). While we understand Ms. O'Donnell's issues in covering for her sick parent, we do not understand why no one else in Calabro & Associates would tend to motions pending before this Court over an eight day period. As Plaintiffs have not demonstrated "excusable neglect," we respectfully request that the Court strike Plaintiffs' opposition to the Union's Rule 12(c) motion. Counsel for the Office of the Impartial Chairperson ("OIC"), Joel Silverstein, has advised us that he joins the request as applicable to OIC's Rule 12(c) motion. Should the Court decline to strike plaintiffs' 12(c) opposition, the Union will make every effort to file and serve its reply papers by June 6, 2008, a date in which Plaintiffs' counsel Cathy O'Donnell has concurred and (2) Mr. Silverstein joins as to OIC's reply papers.

The Union also received Plaintiffs' opposition to the Union's request for sanctions on May 23, 2008. The Union requests leave to serve and file its reply, if any, to Plaintiffs' opposition to the Union's Rule 11 motion on June 6 and Mr. Silverstein has advised that OIC is prepared to do so as well.

Accordingly, the Union hereby requests that the Court either strike Plaintiffs' untimely opposition so that no reply be due and grant leave for the Union to reply in the Rule 11 motion to June 6, or, in the alternative, grant the Union leave to reply to both sets of Plaintiffs' opposition papers by June 6, 2008.

Thank you for your direction.

Very truly yours,

Barry N. Saltzman

cc: Cathy O'Donnell, Esq. (email)
 Joel M. Silverstein, Esq. (email)
 Michael J. D'Angelo, Esq.

{00354531.DOC;}

Application Granted in part. Defendants shall file reply papers by June 6, 2008. The Court declines declines to strike plaintiffs' opposition as untimely.
SO ORDERED: Date: 6/3/08 Richard J. Holwell, U.S.D.J.